



Illinois Department of Corrections

Administrative Directive

Number:

01.07.190

Title:

**Release of Clinical Records to Offenders and
Authorized Attorneys**

Effective:

8/1/2020

Authorized by:

[Original Authorized Copy on File]

Rob Jeffreys
Acting Director

Supersedes:

01.07.190 effective 10/1/2019

Authority:

45 CFR 160 and 164
730 ILCS 5/3-2-2
2 IAC 851
20 IAC 107, Subpart D
Consent Decree, Lower vs. Franzen, #78 C 1870, N.D. Ill.,
1980

Related ACA Standards:

5-ACI-1E-04-05

Referenced Policies:

DR 851

Referenced Forms:

DOC 0240 – Authorization for Release of Offender
Mental Health or Substance Abuse
Treatment Information
DOC 0252 – Offender Health Information Disclosure
Documentation
DOC 0264 – Clinical Record Nondisclosure Certification
DOC 0265 – Nondisclosure Agreement

I. POLICY

The Department shall disclose clinical records to offenders, ex-offenders or their authorized attorneys in a manner consistent with the guidelines established in the Departmental Rule on maintenance of records, consent decrees, and the procedures established in this directive.

II. PROCEDURE

A. Purpose

The purpose of this directive is to establish internal guidelines regarding the release of information from clinical records.

B. Applicability

This directive is applicable to all correctional facilities within the Department.

C. Facility Reviews

A facility review of this directive shall be conducted at least annually.

D. Designees

Individuals specified in this directive may delegate stated responsibilities to another person or persons unless otherwise directed.

	Illinois Department of Corrections Administrative Directive	Page 2 of 3
Number: 01.07.190	Title: Release of Clinical Records to Offenders and Authorized Attorneys	Effective: 8/1/2020

E. Definition

Clinical Record – Any mental health record prepared by a therapist in the course of providing mental health services to an offender that is maintained by the Department. Clinical records shall not include the therapist's personal notes or testing material used in the course of providing services.

F. General Provisions

An offender, ex-offender or an authorized attorney may obtain or inspect copies of clinical records that were prepared by a qualified therapist in the course of providing mental health services to the individual, provided that a written request and a signed Authorization for Release of Offender Mental Health or Substance Abuse Treatment Information, DOC 0240, is completed by the offender or ex-offender.

1. Clinical records that are subject to inspection or copying shall be made available to the offender, ex-offender or an authorized attorney only after compliance with Departmental Rules on the maintenance of records and this directive. This shall include having a clinical person, who has been designated by the Chief Administrative Officer, review the clinical records including, where applicable, copies of clinical records forwarded from the Microfilm Section of the Division of Finance and Administration to determine which records are to be disclosed in accordance with Departmental Rules on maintenance of records.
 - a. Information contained in clinical records certified by a qualified therapist in writing as likely to result in physical harm to the offender, other offenders, Department employees, contractors or volunteers shall be redacted in the following manner:
 - (1) If the entire document is certified as not subject to disclosure, the record shall be removed; or
 - (2) If only a portion of a record is certified as not subject to disclosure, a copy shall be made of the original record and the portion to be redacted shall be blackened out on the copy and the copy shall be recopied.
 - b. A copy of the Clinical Record Nondisclosure Certification, DOC 0264, shall accompany the copies of the records provided to the offender, ex-offender or an authorized attorney whenever information has been redacted.
 - c. Information certified by a qualified therapist as likely to result in physical harm to the offender, other offenders, Department employees, contractors or volunteers may be made available to an authorized attorney provided the attorney agrees in writing on the Nondisclosure Agreement, DOC 0265, not to disclose that information to the offender or any other person who may re-disclose it to the offender.

NOTE: A therapist's personal notes and testing material shall not be released without a court order.
2. The Chief Administrative Officer shall determine whether access to the records shall be provided through inspection or copying.

G. Requirements

The Health Care Unit Administrator or Facility Privacy Officer shall coordinate the disclosure of clinical records. This shall include:

	Illinois Department of Corrections Administrative Directive	Page 3 of 3
Number: 01.07.190	Title: Release of Clinical Records to Offenders and Authorized Attorneys	Effective: 8/1/2020

1. Ensuring that the request for the records is in writing and the offender or ex-offender has signed a DOC 0240.
 2. Advising the offender or ex-offender that if the records are to be copied, copies of said material shall be produced only after either:
 - a. Payment of copying costs by the offender, ex-offender or an authorized attorney; or
 - b. A declaration of the offender's indigence by the Chief Administrative Officer, based upon a written request for same by the offender is obtained.

NOTE: Copying costs shall be consistent with the fee schedule in Departmental Rule 851, Freedom of Information Act.
 3. Forwarding the request and signed DOC 0240 to the clinical person designated by the Chief Administrative Officer to review the records and determine which records shall be disclosed.

NOTE: The clinical person shall, within ten working days of receipt of the request, determine the records to be disclosed in accordance with the Departmental Rule on maintenance of records and forward the information to the Health Care Unit Administrator or Facility Privacy Officer.
 4. Ensuring the records that may be disclosed are:
 - a. Made available to the offender, ex-offender or an authorized attorney for inspection; or
 - b. Copied and the copies are forwarded to the offender, ex-offender or an authorized attorney.
 5. Ensuring that the offender, ex-offender or an authorized attorney, as applicable, signs an Offender Health Information Disclosure Documentation, DOC 0252, upon inspection or receipt of the records.
 6. Attaching the DOC 0252 to the original copy of the DOC 0240 and the written request and filing the documents in the offender's medical record file. When the written request for records includes non-clinical information, a copy of the request form shall be given to the office with custody of the records to process the completion of the request.
 7. Maintaining a log of all such requests and the type of action taken in each case.
-